June 1, 2015

TO: Interstate Commission for Adult Offender Supervision

FROM: Eric Philp, Director of Probation Services
Devon Whitefield, DCA for Probation
Colorado Judicial Branch

SUBJECT: Colorado HB15-1267

On May 8, 2015, Colorado HB 15-1267 became effective. HB 15-1267 only applies to probationers and not parolees. Pursuant to this legislation, an adult probationer who possess a medical marijuana registry identification card issued by Colorado is permitted to possess and use medical marijuana unless the probationer was convicted of violating Colorado’s medical marijuana laws (Title 12, Article 43.3 of Colorado Revised Statutes) or the sentencing court determines, based on the results of a Colorado-mandated assessment (§18-1.3-209, C.R.S.), that prohibiting the possession or use of medical marijuana is necessary and appropriate to accomplish the goals of sentencing as stated in §18-1-102.5, C.R.S.

Colorado’s standard probation condition relative to drug/alcohol use has been amended to provide as follows (emphasis added):

I will not use alcohol (to excess)* or use or possess any illegal, dangerous, or abusable drugs or controlled substances without a prescription, except that the use of medical marijuana is permissible unless such use is prohibited by court order or my conviction is for a violation of Article 43.3 of Title 12, C.R.S.

Because Compact probationers must comply with Colorado law, Colorado will not enforce a sending state’s probation condition if that condition is inconsistent with HB 15-1267 and the revised probation condition set out above. Instead, if a Compact probationer obtains a Colorado medical marijuana registry identification card, the probationer will be permitted to use/possess medical marijuana unless a Colorado probation officer determines that one of HB 15-1267’s exceptions potentially applies. If the results of the required assessment suggest that prohibiting the possession or use of medical marijuana is necessary and appropriate, Colorado will contact the sending state, whose sentencing court must make the statutorily required finding before Colorado will have the authority to preclude the use/possession of medical marijuana.

Cc: Alison Morgan, Colorado Commissioner
Joe White, DCA for Parole